S.B.CRIMINAL MISC. BAIL APPLICATION NO.5567/2006

Date : 03.01.2007

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. Mahesh Bora for the applicant.
Mr. Vishnu Kachhawaha, Public Prosecutor for State.
Mr. Sandeep Mehta)
Mr. Parbat Singh) for the complainant.

I have heard learned counsel for the applicant as well as the learned Public Prosecutor for the State assisted by learned counsel for the complainant and carefully gone through the impugned order.

The contention of learned counsel for the applicant is that there is no iota of evidence available in the present case against the accused applicant. It is submitted that brother of the accused applicant is involved in this case that does not mean that the accused applicant is also involved in conspiracy in relation to the present crime. It is further submitted that if on mobile phone, the applicant has talked to his brother or his brother has talked them it does not mean that the accused applicant was in conspiracy with his brother or with any other person to commit the present crime. It has also been submitted that the present matter

would not traverse beyond Section 304 IPC because the injuries are not on vital part of the body. It is also submitted that 5 injuries are simple in nature and 6 injuries on the person of the deceased were found serious in nature.

On the other hand, learned Public Prosecutor assisted by learned counsel for the complainant opposed the bail application and submitted that it is a case where on previous occasion also a First Information Report was lodged against the accused applicant and his brother who is also involved in the present case. It is submitted that proceedings under Sections 107 and 116(3) Cr.P.C. were also launched against the accused applicant and his brother and other persons. Learned counsel has filed the copy of the FIR and the complaint made against the accused applicant and others.

I have considered the submissions made before me.

It is not necessary for me to express any opinion as to whether a case under Section 302 IPC is made out or not but it is suffice to say that the matter is pending investigation, therefore, I

do not feel inclined to extend benefit of anticipatory bail to the applicant at this stage.

The bail application moved by the applicant under Section 438 Cr.P.C.stands rejected.

(SATYA PRAKASH PATHAK), J.

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